In The

Supreme Court of the United States

October Term, 1944

No. 115

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, an Illinois Corporation,

Appellant,

vs.

MORVIN DUEL, Commissioner of Insurance of the State of Wisconsin,

Appellee.

APPEAL FROM THE SUPREME COURT OF THE STATE OF WISCONSIN

BRIEF OF APPELLEE

JOHN E. MARTIN,
Attorney General of Wisconsin,

HAROLD H. PERSONS,
Assistant Attorney General of Wisconsin,

Counsel for Appellee.

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BRIEF OF APPELLEE

NATURE OF THE CASE

This appeal brings up for review the decision of the Supreme Court of Wisconsin that the Appellant, an Illinois insurance corporation, is not entitled to do an insurance business in the State of Wisconsin unless it satisfies the requirements of the Wisconsin Statutes, applicable to both domestic and foreign insurance companies, that the reserve specified by Section 201.18 Wisconsin Statutes be shown and included as a liability in the annual statement of its affairs, which statement Section 201.50 Wisconsin Statutes requires every insurance company to file each year with

the Appellee Commissioner of Insurance. Said decision dated January 18, 1944 is reported *State Farm Mutual Automobile Insurance Co. v. Duel*, (1944) 244 Wis. 429, 12 N. W. (2) 696. (R. 135-139) Motion for rehearing was denied March 14, 1944. (R. 140) Certain phases of the decision are dependent upon and require reference to the decision in a prior case reported *Duel v. State Farm Mutual Automobile Insurance Co.*, (1942) 240 Wis. 161, 1 N. W. (2) 887, 2 N. W. (2) 871.

The appeal is from two judgments of the Supreme Court of Wisconsin entered, pursuant to said decision, in two separate appeals to that Court which were there heard, considered and decided together. Said judgments affirmed separate judgments of the Circuit Court for Dane County, State of Wisconsin, dismissing two actions commenced therein by the Appellant to enjoin the Appellee Commissioner of Insurance of the State of Wisconsin from interfering with its doing an insurance business in the State of Wisconsin for the respective periods of May 1, 1942 to April 30, 1943 and May 1, 1943 to April 30, 1944, and to compel Appellee to approve of its doing business therein during said periods by issuing licenses therefor which Appellee had refused to do. The basis of his refusal was that the Appellant failed to comply with the provisions of Section 201.18 of the Wisconsin Statutes requiring that a reserve computed as therein specified be included and shown as a liability in the annual statements it is required to file by Section 201.50 of the Wisconsin Statutes. The Supreme Court of Wisconsin in its decision sustained the position of the Appellee that the Appellant company did not comply with said statutes and is not entitled to do business in the state unless it does so.

STATUTES INVOLVED

The provisions of Section 201.18 of the Wisconsin Statutes directly involved are:

> "201.18 Reserves, basis for. (1) The unearned premium or reinsurance reserve for every insurance company when no other statutory provision is made therefor, shall be computed by the commissioner by setting up fifty per cent of the premiums received on all risks that have one year or less to run, and pro rata of all premiums on risks that have more than one year to run. In the case of perpetual risks or policies, the whole amount of premium paid shall be set up as a reserve. Every such company shall show its reserve, computed upon this basis, as a liability in the annual statement required by section 201.50.
>
> "(2) * * *."

Of importance as related to the question of the validity of the above provisions are the following provisions of the Wisconsin Statutes:

> "201.32 Foreign companies; admission. (1) No foreign insurance company shall directly or indirectly transact any insurance business in this state except upon compliance with the requirements of this section.
>
> "(2) * * *
>
> "(3) A mutual company shall satisfy the requirements as to solvency and the limitations as to expenses exacted of like domestic companies.
>
> "(4) The foreign company shall file a declaration that it desires to transact insurance in this state, and that it will accept a license therefor to terminate in case it shall violate or fail to comply with any provision

of law, or in case its capital shall be impaired to the extent of twenty per cent, and shall not be made good within such time as the commissioner shall require, if such commissioner shall declare its license revoked therefor.

"(5) * * *

"(6) * * *."

"201.34 License; visitation; foreign companies. (1) The commissioner shall upon being satisfied by investigation that any insurance company applying for license or relicense has fully complied with all provisions of law, and that its methods and practices in the conduct of its business and the character and value of its assets are such as to safeguard the interests of its policyholders and the people of the state, issue to such company a license to transact business in this state, and shall renew the same from year to year so long as such company shall meet all requirements of law; and shall give to every agent of such company a certificate that such company has complied with all the provisions of law and is authorized to transact business in this state, which license to the company and certificate to agents shall continue in force until the first day of May next after the effective date thereof, unless sooner revoked.

"(2) The commissioner shall have the same supervision and make the same examination of the business and affairs of every licensed foreign insurance corporation as of domestic corporations doing the same kind of business, and of its assets, books, accounts and general condition. Every such foreign corporation and its agents and officers shall be required to make the same statements and answer the same inquiries and be subject to the same examinations, and, in case of default therein, to the same penalties and liabilities

as domestic corporations doing the same kind of business, and the agents or officers thereof may be liable to.

"(3) * * *

"(4) * * *."

"201.50 Reports to commissioner, forms, contents, penalties. (1) Every insurance company shall annually by March first file with the commissioner a sworn statement concerning its affairs for the preceding calendar year, upon such forms and including such information as shall be prescribed by him. The statement of any company organized under the laws of any foreign country shall set forth its business and affairs in the United States, verified by its resident manager in the United States. The commissioner shall prepare forms of annual statement for the various kinds and classes of insurance companies and societies, suitable for eliciting a true and complete exhibit of the financial condition, character and methods of each company or society, and he shall include in such forms, requisition for information upon all important elements of business transacted in each kind and class of insurance, including gain and loss, and any matter, condition or requirement imposed by law and tending to a strict accountability of the management. The commissioner shall furnish annual statement blanks to the insurance companies and societies, and shall cause the information contained in the annual statements to be arranged in convenient form and published in his annual report.

"(2) No company or society shall be relicensed until such annual statement has been so filed and all other provisions of the law complied with; provided, the commissioner may extend the time for filing such annual statement to March thirty-first. * * *"

"206.55 Insurers to comply with law. No insurance company shall do any insurance business or make any guaranty, contract or pledge for the payment of annuities or endowments or money to the families or representatives of any policy or certificate holder, or the like, in this state or with any resident of this state except according to the conditions and restrictions of the statutes of this state."

QUESTION PRESENTED

Whether the provisions of the Wisconsin Statutes requiring that every insurance company, domestic and foreign, in order to be entitled to transact insurance business in Wisconsin, must show and include the reserve specified in Section 201.18 (1) Wisconsin Statutes as a liability in the annual statement of its affairs, which Section 201.50 Wisconsin Statutes requires every company to file each year with the Commissioner of Insurance of Wisconsin, are violative of any of the following provisions of the United States Constitution:

(1) Commerce Clause of Article I, Section 8.

(2) Due Process Clause of the Fourteenth Amendment.

(3) Full Faith and Credit provision of Article IV, Section I.

STATEMENT OF MATERIAL FACTS

There is no dispute as to the facts which are material to the questions presented on this appeal.

The Appellant, State Farm Mutual Automobile Insurance Company, is a corporation organized in 1922 under the Laws of the State of Illinois and having its principal or home office at Bloomington, Illinois. For many years it has used a life membership fee plan of writing automobile insurance and now uses such plan, in most of the States in which it operates. The nature of this plan is fully considered by the Supreme Court of Wisconsin in its decision in *Duel v. State Farm Mutual Automobile Insurance Co.*, (1942) 240 Wis. 161, 1 N. W. (2) 887, 2 N. W. (2) 871.

Under this life membership fee plan, each policyholder upon becoming such must pay a separate membership fee for each general class or kind of automobile insurance then or later purchased by him. This fee is not the same for all but varies in amount with the type of coverage and with the territory or locality in which the policyholder resides or does business. Once a membership fee is paid for any given coverage it is never required to be paid again, although he may change the automobile to which the policy applies. He may also drop the policy and later reinstate it. The policyholder also pays an additional sum of money which the Appellant denominates as premium. The policies run for an initial period of six months and are then extended for successive six month periods by payment of a similar sum direct to the Appellant for each such extension or renewal, the amount thereof being determined by the Appellant upon the basis of the cost of the coverage during the preceding period. The Appellant considers these life mem-

bership fees paid as wholly separate and distinct from the sums payable each successive six months, which latter it denominates as the premium. The policy contains a provision that such life membership fees are not returnable but entitle the policyholder for life to insure one automobile for the coverages for which life membership fees are paid so long as the company writes the same and the insured remains a desirable risk. Should a policyholder desire additional coverage of a type not included in the policy and for which no life membership fee has been paid, it would be necessary for him to pay another life membership fee for such additional coverage as well as the six months' charge to be collected therefor which the Appellant denominates as the premium. As noted in *Duel v. State Farm Mutual Automobile Insurance Co.*, (1942) 240 Wis. 161, 176, 1 N. W. (2) 887, 2 N. W. (2) 871, for many of Appellant's purposes and reports it considers these life membership fees as premiums.

Continually over the years the Appellant has endeavored to be permitted to do an automobile insurance business in the State of Wisconsin using this life membership fee plan. Over the years the various Commissioners of Insurance, with the single exception of 1939, consistently took and adhered to the position that its methods were such that it did not and could not comply with the provisions of the Wisconsin Statutes regulating insurance and refused to issue it a license as evidencing compliance with such state law. In 1939, however, Commissioner Mortensen took a contrary position and on July 13, 1939 issued it a license as a foreign insurance company to do all forms of automobile insurance business in the state upon this life membership fee plan for the period May 1, 1939 to April 30, 1940.

This was the first and only time the Appellant has done business in Wisconsin as the holder of a license so to do.

In the course of things after his appointment on September 27, 1939, the Appellee, Morvin Duel, as Commissioner of Insurance addressed himself to the legality of the Appellant's doing business in the State and of such license. Upon application by Appellant for renewal for the period May 1, 1940 to April 30, 1941, Appellee refused the same because *inter alia* this life membership fee plan did not comply with the requirements of the Wisconsin Statutes. His position in this regard was confirmed by the decision of the Supreme Court of Wisconsin in *Duel v. State Farm Mutual Automobile Insurance Co.*, (March 13, 1942) 240 Wis. 161, 1 N. W. (2) 887, 2 N. W. (2) 871. It was there held that "premium" as used in the Wisconsin Statutes, and particularly Section 201.18, includes "all sums which must be paid before insurance protection is granted and which are exacted to defray the cost of insurance protection," and therefore includes life membership fees. Perforce of various procedural steps in presenting that case to the Supreme Court of Wisconsin, the Appellant continued during the litigation to do business in Wisconsin upon said life membership fee plan under and pursuant to temporary injunctions.

Following this decision the Appellant abandoned the use of the life membership fee plan in Wisconsin but continued to use it elsewhere. It then applied for a license for the period May 1, 1942 to April 30, 1943 to use the level premium plan in Wisconsin. Because *inter alia* the reserve specified by Section 201.18 Wisconsin Statutes shown and included as a liability in the statement of affairs filed by the Appellant did not include any reserve in respect to

life membership fees the Appellee refused such license. It was his position that Section 201.18 Wisconsin Statutes, as interpreted in the decision in *Duel v. State Farm Mutual Automobile Insurance Co.*, (1942) 240 Wis. 161, 1 N. W. (2) 887, 2 N. W. (2) 871, requires that such reserve be computed and shown in respect to *all* premiums which includes life membership fees. It is not disputed that the reserve set out in Appellant's statement does not do this.

Thereupon the Appellant State Farm Mutual Automobile Insurance Co. commenced action in the Circuit Court for Dane County, Wisconsin, to enjoin the Appellee from interfering with its doing business in the State and to compel him to issue it a license for the period May 1, 1942 to April 30, 1943, asserting *inter alia* that applied as so construed sec. 201.18 offends the due process and the full faith and credit provisions of the United States Constitution. Appellee answered and following state practice moved for summary judgment dismissing the action on the merits.

Before this motion was decided the period May 1, 1943 to April 30, 1944 came around and there being no factual changes as respects the matters involved, the Appellee similarly denied the Appellant's application for a license for that period and refused to issue it for the same reasons. Appellant then commenced a like action in the same court but covering the new period. Answer was made thereto and by stipulation the motion for summary judgment was made applicable to both the pending cases.

On July 3, 1943 the Appellee's motion for summary judgments was granted and judgments were entered by the trial court in both cases dismissing them on the merits. Appellant State Farm Mutual Automobile Insurance Company then took separate appeals from these judgments to

the Supreme Court of Wisconsin. The cases were briefed, heard and decided together. In its decision therein January 18, 1944 reported *State Farm Mutual Automobile Insurance Co. v. Duel*, (1944) 244 Wis. 429, 12 N. W. (2) 696, the Supreme Court of Wisconsin sustained the position of the Appellee and held that sec. 201.18 Wisconsin Statutes requires that the reserve therein specified be computed and shown in respect to *all* premiums, which includes life membership fees, in respect to the entire business of a company. Motions for rehearing were denied March 14, 1944. It is from the judgments of affirmance of the lower state court entered pursuant to said decision that Appellant here appeals.

ARGUMENT

I. THE PURPOSE OF THE UNEARNED PREMIUM RESERVE REQUIRED BY SECTION 201.18 (1) WISCONSIN STATUTES IS TO MEASURE FUTURE CONTINGENT LIABILITY UPON UNEXPIRED RISKS AS ONE OF THE ELEMENTS OR FACTORS TO BE TAKEN INTO ACCOUNT IN DETERMINING FINANCIAL CONDITION AND STABILITY.

The Appellant's position on this appeal in the main is predicated upon the same erroneous assertion that was urged by it before the Supreme Court of Wisconsin. It is that the reserve as required by Section 201.18 (1) Wisconsin Statutes is solely to show liability for return to policyholders of unearned premiums in the event of cancellation before expiration. Appellant claims that in those states where it uses the life membership fee plan no part of life membership fees is returnable because the policies contain express provisions to that effect and such fees are not there regarded as premium. It then urges that as no obligation exists to return these life membership fees or any part thereof, the requirement of such reserve computed and shown for life membership fees as well as for what it denominates as premium in those states is unreasonable and invalid as requiring a reserve for a liability that does not exist.

As stated above this same contention was made by it in these same cases before the Supreme Court of Wisconsin and rejected by that court. It thus stands that the state court has construed this statute as not having such a restrictive purpose or operation. Otherwise that court would have accepted Appellant's argument and declared the statute

unreasonable and inoperative as applied in these cases to life membership fees.

The purpose of this reserve is to measure the entire future contingent liability on unexpired risks as one of the elements or factors to be taken into account in passing upon and determining financial condition and stability in the future as well as the present. The language of the statute does not say that this reserve is one set up to show possible liability in the future for return or refund of unearned premium in the event of cancellation before expiration. It merely denominates the reserve as "unearned premium or reinsurance reserve." The denomination of the reserve as "unearned premium reserve" does not in and of itself limit the liability it reflects to just that of returning or refunding some part of premium in the event of cancellation. The narrowest meaning or effect that could be given such denomination of it as "unearned premium reserve" is that the reserve to be shown is the amount of premium which has not been earned because the policy has a portion of its term still to run and the liability thereby reflected is the proportionate unexpired part of the insurance protection for which the whole premium was paid and includes whatever contingent liability attends upon carrying the policy to its expiration.

It is true that refund of unearned premium upon cancellation may be one of the liabilities in the alternative for which the reserve is required, but it is not the only one. There is the liability attendant upon the company's carrying the risk of anticipated losses in the future to the end of the term of the policy, and also the contingent liability of the amount which it might have to pay to reinsure the risk for the unexpired term in another company. The de-

nominating of this reserve as both "unearned premium" reserve and "reinsurance" reserve arises probably out of the fact that it is impossible to completely divorce the amount required to pay premiums for reinsurance by another company from the amount necessary for the company itself to carry the risk of future losses during the remainder of the policy term. Another company would not reinsure without taking into account the possibility of future losses and the cost of carrying the policy to its expiration in determining its charge for reinsurance.

Riegel & Loman, Insurance Principles and Practice, Revised Edition 1942, at page 392, in discussing a reserve of the kind says:

> "* * * From the standpoint of the insured the reserve may be regarded as a fund which enables the company to return the unearned portion of the premium in case of cancellation, and provides for the reinsurance of the risks with other companies. It is very important to the insured, for example, to know that the insurance company has laid aside a sufficient sum to take care of all possible losses. If this were not done by maintaining a reserve of the unearned premium the company would be gambling on the probabilities of loss and endangering its future solvency. * * * It is not to be inferred from this that another company will assume these risks under all circumstances for exactly the amount of the reinsurance reserve, for this depends on the character of the risks that are being carried. If the underwriting methods of the retiring company have been conservative it may be that another company will be glad to assume the business for an amount forty per cent less than the unearned premium reserve. On the other hand, if a reckless or unfortunate company has accumulated undesirable risks on its books it may

be that the reserve held would be considered insufficient. In fact, when a company goes out of business, it is most frequently due to unsuccessful methods of underwriting, and the accompaniment is usually an inadequate reserve. In these cases the transfer of the risks often requires a sum exceeding the reserve.

"Thus the reserve is necessary as (1) a premium as yet unearned, (2) a necessary element in estimating solvency, (3) a fund providing for return of premiums on policies canceled, (4) a fund providing premiums for reinsurance, if necessary, and (5) a fund for the payment of future losses. The manner in which the reserve is calculated determines its efficacy for these purposes."

This statute is a recognition by the Legislature of Wisconsin that during unexpired terms of policies a company has a risk liability which may accrue thereon and provides a method for measuring such future liability to be taken into account for purposes of determining the company's financial condition and stability.

This reserve is merely a bookkeeping entry. There is no segregation or trust funding of assets for this reserve liability. It is purely an accounting matter that is taken into consideration in passing upon solvency and soundness of the insurance company. Such a reserve for unearned premiums is not set up separately for each state in which a company does business because solvency and soundness are not determinable on a state basis but in respect to the entire assets, liabilities and affairs of the company on an over-all basis. Necessarily it is determined upon a unitary basis.

The history of the provisions of Section 201.18 (1) Wisconsin Statutes shows that since 1911 the State of Wisconsin by statute has required that reserves of this character be computed and taken into account. By Chapter 235, Laws of Wisconsin of 1911, there was enacted Section 1899, containing Subsections (a) and (b), the provisions of which, with some subsequent phraseology changes not affecting the substance, for all practical purposes are the same as the present Subsection (2) of Section 201.18 Wisconsin Statutes now reading:

> "(2) Where no other provision is made therefor by law, the reserves of any insurance company shall be calculated upon such basis, method and plan as shall fully provide for all liabilities, and any basis, method and plan fixed by the order of the commissioner shall be prima facie just, reasonable and proper."

By Chapter 291, Section 3, Laws of 1913 said Section 1899 was renumbered to be Section 201.18. Then Chapter 246 Laws of 1929 renumbered Subsections (1) and (2) of Section 201.18 to be Subsections (2) and (3) thereof, and added a new Subsection (1), which, with subsequent phraseology changes not affecting the substance, is the present Section 201.18 (1) here involved. These phraseology changes made by Chapter 487, Laws of 1933 merely condensed the provisions of Subsection (1) and at the same time combined and condensed the previous Subsections (2) and (3) into the present Subsection (2) above quoted.

Thus it is that for at least the last 30 years the State of Wisconsin through its statutory enactments has dealt with the matter of reserves of insurance companies and since 1929 has had in its statutes the specific requirements

of Section 201.18 (1) presently here under attack. These statutory provisions are general in that they apply to all insurance companies, domestic and foreign, and rest upon concern with having sound and stable companies with which the citizens of Wisconsin may deal in insuring their property. As previously noted the administrative officials of Wisconsin, with the single exception of the 1939 transaction with Appellant, have consistently interpreted and applied this Section 201.18 (1) as requiring a showing of the reserve upon all premiums, including therein the entire payment made by the insured to obtain the insurance, and when presented to the Supreme Court of Wisconsin in the prior case of *Duel v. State Farm Mutual Automobile Insurance Co.*, (1942) 240 Wis. 161, 1 N. W. (2) 887, 2 N. W. (2) 871, it in effect held such interpretation correct and that the 1939 departure therefrom was erroneous.

Appellant at page 15 of its brief quotes from this decision and asserts that by virtue thereof the Supreme Court of Wisconsin held that Section 201.18 was not designed to secure over-all solvency. What the Court there said was in answer to the same argument which Appellant again makes here that because it shows a voluntary contingent reserve of $4,000,000 and a surplus of $8,994,982.39 in its statement, this reserve of Section 201.18 (1) is wholly unnecessary and without valid purpose because it is not claimed that Appellant is insolvent and the existence of such surplus and contingent reserve demonstrates that it is solvent. True it is that the State has not claimed the Appellant is insolvent: On the other hand until the reserve of Section 201.18 (1) is shown as a liability it cannot be determined that it is solvent and sound. Whether or not it has such asserted surplus, or any surplus at all, is de-

pendent upon the amount of this reserve. No surplus exists until this reserve has been calculated and given effect as a liability. When this reserve is calculated and given effect as a liability it may be that it would completely wipe out the asserted surplus and the contingent reserve. This is the very reason that the statutes requires such reserve to be calculated and shown as a liability. With this in mind the ridiculousness of saying that this reserve has no pertinancy to over-all solvency is obvious.

II. SECTION 201.18 (1) WISCONSIN STATUTES, AS CONSTRUED AND APPLIED, IS NOT VIOLATIVE OF THE COMMERCE PROVISION OF ARTICLE I, SECTION 8 OF THE UNITED STATES CONSTITUTION.

(1) *Appellant makes no objection to consideration of this issue, although not raised below.*

This point is raised in these cases for the first time in this Court. However, notwithstanding that the well established rule is that the Court will not consider or pass upon questions not raised in the state court, the Appellee here does not object to this point being injected into the case.

In the first place, assuming for the purposes of this argument that the insurance transactions of the Appellant in Wisconsin are sufficiently shown in the record to be interstate commerce, if state regulation of the type here involved is a valid exercise of state power it will go a long way towards quieting much of the uncertainty existing in the minds of some to have it so stated authoritatively. On the other hand, were it not valid then likewise it would be equally important if it were so established.

In the next place, were Appellee to object and the case considered without this point or the case remanded to the state court to pass thereon, the only result would be a postponement of a decision upon the issue to some future date. Appellant company has been litigating with the State of Wisconsin over doing business therein since early in 1940 and perforce of the annual licensing feature of the statutory regulatory scheme a new case has been started in respect to each of the license years. Two cases (designated as Nos. I and II for identification) covering the license years May 1, 1940 to April 30, 1941 and May 1, 1941 to April 30, 1942, were ultimately decided adversely to the Appellant by *Duel v. State Farm Mutual Automobile Insurance Co.*, (1942) 240 Wis. 161, 1 N. W. (2) 887, 2 N. W. (2) 871. But, perforce of procedural considerations, the temporary injunctions therein, under which it did business during those license periods, were continued until it took another tack resulting in two more cases (designated as Nos. III and IV for identification) involving the subsequent license years May 1, 1942 to April 30, 1943 and May 1, 1943 to April 30, 1944, which are the cases involved in this appeal here. Temporary injunctions in these cases similarly gave it the opportunity to continue to do business in the state without complying with the reserve requirements of Section 201.18. Here again the decision by the Supreme Court of Wisconsin was against the Appellant, but under stay orders it continued to do business in Wisconsin and is now doing so by virtue of a temporary injunction in still another case, (No. V) which it has commenced in respect to the license year May 1, 1944 to April 30, 1945.

Thus, although the State's officials have prevailed throughout, the victories have been Pyrrhic for the Appel-

lant has done business in Wisconsin since 1939 and is now doing business therein, although it has never complied with Wisconsin statutory regulations and presently fails or refuses to comply therewith. From the standpoint of effective administration of the statutes of Wisconsin it is desirable to have the issue now raised in respect to interstate commerce authoritatively determined as early as possible. If not ruled upon at this time the question will come back some months hence by a subsequent appeal in this same matter, or else the issue will ultimately come here upon appeal in case No. V, now lying dormant in the lower state court pending this appeal.

Appellee therefore makes no objection to the Court considering the interstate commerce feature as raised by the Appellant, and if consent thereto is in order it is hereby given. However, such non-objection or consent is limited to the narrow question presented which is whether exaction by the State of Wisconsin of the reserve requirements of Section 201.18 (1) Wisconsin Statutes as a condition to doing an insurance business in the state when applied to a foreign corporation is invalid as imposing an unreasonable or undue burden upon interstate commerce.

(2) *The requirements of Section 201.18 (1) are within the realm of proper state regulation.*

The Appellant does not assert that because it claims it is engaged in interstate commerce when it does business in the State of Wisconsin the state is wholly precluded from regulating the conduct of such business within its borders. Its contention is very narrow and is that the reserve requirements of Section 201.18 (1) as applied to the

Appellant do not effectuate a legitimate state interest and therefore unduly burden and obstruct interstate commerce. There is not presented any broad claim that no state regulation of interstate commerce is valid but on the contrary there is acceptance by all parties of the pronouncements of this Court in recent cases that in the absence of congressional action state regulation of interstate commerce is valid where it is grounded upon matters of local concern and does not unduly burden or obstruct interstate commerce. *U. S. v. South-Eastern Underwriters Assn.*, (1944) 322 U. S. 533, 64 S. Ct. 1162, 88 L. ed. (adv.) 1023; *Parker v. Brown*, (1942) 317 U. S. 341, 63 S. Ct. 307, 87 L. ed. 315; *Milk Control Board v. Eisenberg Farm Products*, (1938) 306 U. S. 346, 59 S. Ct. 528, 83 L. ed. 752; *California v. Thompson*, (1940) 313 U. S. 109, 61 S. Ct. 930, 85 L. ed. 1219; *Union Brokerage Co. v. Jensen*, (1944) 322 U. S. 202, 64 S. Ct. 967, 88 L. ed. 887.

Nor is any position taken in this case that there is any question as to the validity of the requirement that a foreign insurance company obtain a license from the State of Wisconsin before it may transact its insurance business in that state. The probable reason that no such a position is taken is that it would be without merit. A state regulation that is otherwise valid as a proper exercise of the police power is not rendered invalid because the method by which it is enforced is a licensing requirement. *Milk Control Board v. Eisenberg Farm Products*, (1938) 306 U. S. 346, 59 S. Ct. 528, 83 L. ed. 752; *California v. Thompson*, (1940) 313 U. S. 109, 61 S. Ct. 930, 85 L. ed. 1219; *Union Brokerage Co. v. Jensen*, (1944) 322 U. S. 202, 64 S. Ct. 967, 88 L. ed. 887; *Caskey Baking Co. v. Virginia*, (1941) 313 U. S. 117, 61 S. Ct. 881, 85 L. ed. 1223.

Accordingly we do not have up for consideration in this case anything other than the narrow question of the validity of Section 201.18 (1) as a state regulation. There is not brought into question any other features or provisions of the Wisconsin statutes relating to insurance companies and any broad consideration of them is entirely outside of the issues of this case.

It is not challenged by Appellant that state requirement of reserves in the interest of financial soundness and stability of the insurance companies that do business in a state is a subject of legitimate local concern and may be imposed on foreign insurance companies. It seems doubtful that anyone would so contend, for nothing could be more properly the subject of local concern and interest than the maintenance of financially sound and stable insurance companies in a state so as to protect the economic welfare of the persons who might take insurance with them. As stated by the well known authority, Professor Huebner, in *Property Insurance*, 1938 edition, at page 251:

> "From the foregoing it is evident that the maintenance by every company of a fund equal to the unearned premiums on all its policies in force should be a necessary requirement for its financial solvency. It is only natural, therefore, that the several states have enacted laws requiring the companies to maintain such a reserve, and making it the duty of the insurance commissioner to determine annually their financial condition. These laws are of the greatest importance, and upon their strict observance depends, very largely, the security of policyholders. * * *"

The field is one in which state police power is properly exercisable because the business of insurance and activities

in the conduct thereof are affected with a public interest. *German Alliance Insurance Co. v. Lewis*, (1914) 233 U. S. 389, 34 S. Ct. 612, 58 L. ed. 1011, *National Union Fire Ins. Co. v. Wanberg*, (1922) 260 U. S. 71, 73, 43 S. Ct. 32, 67 L. ed. 136, 138.

(3) *Section 201.18 (1) Wisconsin Statutes as construed and applied does not impose an unreasonable burden upon interstate activities of the Appellant.*

Upon this point it is pertinent that, as previously stated, observance of and compliance with the requirements of Section 201.18 (1) does not require that the Appellant set aside, trust fund, or segregate any assets or property, within the State of Wisconsin or elsewhere. Nor does this statute attempt to regulate or restrict the Appellant in doing business outside of Wisconsin any way whatsoever. This statute does not purport to and does not in any way change or affect the terms or liabilities on insurance policies outside of the state. All that it does is to require as a condition of doing business in the state a reserve be shown as a liability in the statement the company must file with the Commissioner of Insurance, and that such reserve, according to the interpretation given by the Supreme Court of Wisconsin to the word "premium" as used therein, must be computed in respect to all unexpired risks and upon the total amount paid by policyholders as consideration for obtaining of such insurance.

The argument of Appellant is that because life membership fees collected in other states are not there regarded as premium the State of Wisconsin may not treat them as premium for the purpose of computation of reserves in test-

ing financial soundness and stability of the Appellant. This would deny to the State of Wisconsin the right to fully exercise its police power in respect to solvency which is an admitted and recognized proper field of state regulation. To deny the state such power would be to deny it the power to act as a sovereign within its borders in a field that is proper for it to exercise such power. It would be equivalent to saying that Wisconsin cannot protect its own people but must permit other states and insurance companies to establish and fix its standards of soundness and solvency, which it must accept whether it wants to or not.

In this connection Appellant states that requiring this reserve does not benefit Wisconsin policyholders. Obviously it is wrong in this assertion for quite clearly the requirement of this reserve does not operate to set up any separate fund or particular assets to which resort may be had for preferential payment of claims either by Wisconsin policyholders or by policyholders generally on the policies to which the reserve relates. The claims of Wisconsin policyholders remain on an equal standing with those of all policyholders everywhere and resort for payment of their claims is to the general assets the same as policyholders elsewhere must do. In the event of liquidation, which would be administered in the main at least in the domiciliary state of an out-of-state company, Wisconsin policyholders would have to assert their claims along with the claims of all policyholders against the assets generally. The same situation exists in reference to Wisconsin citizens and residents asserting damage claims against Wisconsin policyholders and the company as carrying the ultimate liability thereof. Collectibility is thus directly related to and dependent upon the company having assets generally that will be sufficient

to discharge all of its liabilities. The solvency of the company as tested in part by such a reserve thus bears a direct relationship to Wisconsin policyholders and the requirement thereof operates towards assuring adequate general assets to which they will have to resort in the event of liquidation or assertion of damage claims against the company on their policies. It has a bearing upon the company maintaining sufficient assets generally so as to carry out the policies to expiration and furnishing full protection to the policyholders from the assertion of damage claims against them by assuring payment thereof by the company. In addition it similarly has a bearing upon assuring that citizens and residents of Wisconsin who have damage claims against policyholders will be protected by the company having adequate assets to pay the same, and particularly if the policyholders themselves should not have sufficient wealth to make the claims collectible.

As the case stands here this statute of Wisconsin is to be taken as though in express terms it defined "premium" exactly and precisely as the Supreme Court of Wisconsin did in its opinion in the prior case of *State Farm Mutual Automobile Insurance Co. v. Duel*, (1944) 244 Wis. 429, 12 N. W. (2) 696. It is said in *State Farm Mutual Automobile Insurance Co. v. Duel*, (1942) 240 Wis. 161, 1 N. W. (2) 887, at page 175:

> "* * * Thus, it is not only the statutory purpose to include in the term 'premium' all sums which must be paid before insurance protection is granted and which are exacted to defray the cost of insurance protection, but it is contemplated that in return for this premium insurance protection be given which is susceptible of periodic measurement when the insurance is for a definite term. It cannot have been the statutory intent to

permit insurance companies to allocate a portion of the expenses of doing business for some sort of privilege and to designate the rest of the cost of insurance a premium. *To do this would put it within the power of insurers to set their own reserve requirements by redefining 'premium.'* The situation is not helped by so arranging the contract that the fee carries no insurance or other liability. This destroys the statutory scheme for reserves quite as effectively as any other plan for splitting the premium." (Emphasis supplied)

The Appellant stands in relation to this state reserve regulation the same as the employer in *Walling v. Helmerich & Payne*, (Nov. 6, 1944) — U. S. —, 65 S. Ct. 11, 89 L. ed. (adv.) 1, where this Court held that a "split-pay" plan using an arbitrary allocation was an ingenious method to circumvent the provisions of the Fair Labor Standards Act and if allowed it would negative the very purpose thereof. Here Appellant contends that its use elsewhere of a plan, wherein the consideration paid by a policyholder for insurance protection is split up by arbitrary allocation so that a part is denominated a life membership fee and the remainder premium, must be permitted to circumvent the reserve requirements of the Wisconsin statute and negative the very purpose thereof.

If the subject of a state regulation is within the field of state power, as surely is the case here, for the statute is grounded upon protecting the citizens and residents of the state by endeavoring to have sound and stable insurance companies with which they take insurance, it must be sustained unless it can be said that the method adopted bears no reasonable possibility of achieving the object and purpose sought to be accomplished. Such is not the case here

for as shown above it does have a very definite relationship to affording protection in respect to financial soundness and stability which is the object of the regulation.

The method used by this statute is a rule of thumb that is in general use throughout the country. As stated by Professor Huebner in *Property Insurance* at page 252:

> "In its strictest sense, we have seen that the reserve of a fire insurance company should consist of the unearned portion of all premiums collected. But when it is remembered that policies vary in their term all the way from a short period to a period of five years, and even longer, and that more policies are written at one time of the year than at another, it is apparent that it would be a difficult task to examine individually the thousands of policies of a large company with a view to determining the unearned portion of the premium for each. For all practical purposes a short cut rule may be adopted for the approximate ascertainment of this unearned fund. The law of Pennsylvania, already quoted, and generally applied throughout the United States, furnishes such a rule. It provides that the insurance commissioner shall calculate the reserve for unexpired fire risks by 'charging fifty per centum of the premiums written in their policies upon all unexpired risks that have one year or less than one year to run, and a pro rata of all premiums on risks having more than one year to run.'
>
> "This rule is only approximately correct in its application to actual conditions, since it is based on the assumption that the volume of the company's business is uniform throughout the year, i.e., that as many policies of a given term are written on the first day of the year as on the last, and that as many are written on June 30 as on July 1. If this assumption is granted, it follows that the average life of all policies written

in a given year is six months; and that consequently six months of the premium is earned, while the balance is still unearned. If all the policies written by a company in a given year are one-year policies, our rule provides, since all these policies are assumed to have been in force six months, that the company can consider one-half of the total premium income from these policies as earned, and that the other half still remains to be earned. This unearned half of the total premiums, however, which constituted the reserve for that year on one-year policies, will be earned during the first half of the following year.

"If policies are written for longer terms, such as two, three, four, and five years, the same principle is applied. * * *"

Aside from the above, great practical difficulties would exist if state officials were required to determine the amount of the consideration paid for insurance that is regarded as premium in the state where written and use that as the premium upon which to compute the reserve. A determination would have to be made for each company separately and in respect to each and every kind or type of policy used. Also separate investigation and determination would have to be made for each state. And in the absence of express provision by statute or a decision of the Court of last resort in each state it could never be certain that the determination arrived at would be correct. It would require interpretation of the laws of the other states which might not be correct. Elimination not only of work involved but of the uncertainty attendant thereto is effected by the method used in Section 201.18 (1). Consideration of dealing with the intricacies involved in a practical and workable manner in the interest of administrative con-

venience alone furnishes sufficient ground for the legislature to adopt computation of this reserve upon the entire consideration paid by policyholders for their insurance as its standard to be used to reflect liability to be taken into account in considering the financial soundness and stability of insurance companies doing business within the state. *Hans Rees' Sons v. North Carolina*, (1931) 283 U. S. 123, 51 S. Ct. 385, 75 L. ed. 879. As said by Justice Holmes in *Bain Peanut Co. v. Peirson*, (1931) 282 U. S. 499, 501, 75 L. ed. 482, 491, 51 S. Ct. 228, "* * * the machinery of government would not work if it were not allowed a little play in its joints. * * *"

As previously stated the statutory regulation here involved is non-discriminatory. It falls and is imposed alike upon all insurance companies doing business in the state, domestic and foreign, for by its terms this reserve is required to be shown as a liability by "every insurance company." While compliance therewith is necessary for a foreign insurance company to obtain an annual license and a similar license is not required of domestic companies, the annual license requirement is merely the implementation of the statute as applicable to foreign companies and constitutes the means of enforcement thereof against them. Domestic companies are under direct supervision and control of the Commissioner of Insurance and this statutory requirement has effective enforcement against them through the medium of the statutory provisions for revocation of their charter in the state and taking them over in the event of non-compliance with state law.

Neither is it imposed upon interstate activities as such. Nor is it aimed at interstate commerce. Its whole and only purpose is to exert a measure of control over local activities

in the furtherance of a purely local concern. It clearly falls within the language of this Court in *Union Brokerage Co. v. Jensen*, (1944) 322 U. S. 202, 64 S. Ct. 967, 88 L. ed. 887:

> "* * * Nor does it preclude a state from giving needful protection to its citizens in the course of their contacts with businesses conducted by outsiders when the legislation is general in its scope, is not aimed at interstate or foreign commerce, and involves merely burdens incident to effective administration. * * *"

This regulation does not unduly burden or obstruct interstate commerce for all that the Appellant need do is comply therewith by showing this reserve as a liability. It no more unduly burdens or obstructs interstate commerce than the many instances of valid state regulations viewed in the decision in *California v. Thompson*, (1940) 313 U. S. 109, 61 S. Ct. 930, 85 L. ed. 1219, and the state regulation there sustained. Nor does it burden or interfere with interstate commerce to any greater extent than the regulation in *Parker v. Brown*, (1942) 317 U. S. 341, 63 S. Ct. 307, 87 L. ed. 315. If California in the interest of the economic well being of its citizens can regulate the quantity of raisins to be sold in interstate commerce how can it be said that Wisconsin may not regulate the conduct of insurance business within its boundaries by providing reasonable solvency requirements in the interest of protecting the financial well being of its citizens and residents and the state itself from the incidents of loss even though the companies doing that business are engaged in interstate commerce?

The regulations sustained in *Hoopeston Canning Co. v. Cullen*, (1942) 318 U. S. 313, 63 S. Ct. 602, 87 L. ed. 777,

were there held valid as not violative of the due process and equal protection clauses of the Fourteenth Amendment. It is submitted that the same tests are to be applied in respect to the question of whether state regulations unduly burden and restrict interstate commerce as are applied in determining whether in their application to foreign or out-of-state companies they are violative of due process. For if the police power justifies a particular regulation of a foreign corporation in doing business in the state so that there is no violation of due process it is because the subject of the regulation is sufficiently localized as to be a proper subject of exercise of the state police power. By the same token the activity regulated being a legitimate subject of local concern it is subject to local regulation even though it be interstate commerce provided the control exerted is not to prohibit interstate commerce but to regulate it.

The *quantum* of the burden or restraint on interstate commerce by this reserve requirement is no greater than has been sustained in other cases where the objective of the state regulation is protection of the welfare of the citizens and residents of the state. Most of the cases are in the field of health, safety and protection from fraud.

But, this does not mean that state regulation is limited to protection in those fields alone. Some of the cases where state regulation of equal burden have been sustained as not unreasonably interfering with interstate commerce are:

Austin v. Tennessee, (1900) 179 U. S. 343, 21 S. Ct. 132 (Prohibition of sale of cigarettes);

Crossman v. Lurman, (1904) 192 U. S. 189, 24 S. Ct. 234, 48 L. ed. 401 (Prohibition of sale of adulterated food and drugs);

Asbell v. State of Kansas, (1908) 209 U. S. 251, 28 S. Ct. 485, 52 L. ed. 778 (Prohibiting importation of cattle unless inspected and passed as healthy);

Engel v. O'Malley, (1911) 219 U. S. 128, 31 S. Ct. 190, 55 L. ed. 128 (Requiring license to receive bank deposits to be transmitted out of state);

Red "C" Oil Co. v. Board of Agriculture of North Carolina, (1912) 222 U. S. 380, 32 S. Ct. 152, 56 L. ed. 240 (Inspection of oil to be sold to determine it is safe for use);

Mutual Film Corp v. Hodges, (1915) 236 U. S. 248, 35 S. Ct. 393, 59 L. ed. 561 (Censorship of moving picture film);

Interstate Busses Corp. v. Holyoke Street R. Co., (1927) 273 U. S. 45, 47 S. Ct. 298, 71 L. ed. 530 (Requirement license to operate bus);

Packer Corporation v. Utah, (1932) 285 U. S. 105, 52 S. Ct. 273, 76 L. ed. 643 (Prohibition of cigarette advertising);

Bradley v. Public Utilities Commission, (1933) 289 U. S. 92, 53 S. Ct. 577, 77 L. ed. 1033 (Requirement of permit by interstate motor carrier);

Hickey v. Coney, (1933) 290 U. S. 169, 54 S. Ct. 142, 78 L. ed. 247 (Requirement of permit, payment of fee and filing of liability bond by motor carrier);

Pacific States Box & Basket Co. v. White, (1935) 296 U. S. 176, 56 S. Ct. 159, 80 L. ed. 138 (Requiring standard hampers);

Clyde Mallory Lines v. State of Alabama, (1935) 296 U. S. 261, 56 S. Ct. 184, 80 L. ed. 215 (Regulation of harbor traffic);

Bayside Fish Flour Co. v. Gentry, (1936) 297 U. S. 422, 56 S. Ct. 513, 80 L. ed. 772 (Regulation of canning sardines brought from out of state);

Hartford Accident & Indemnity Co. v. Illinois, (1936) 298 U. S. 155, 59 S. Ct. 685, 80 L. ed. 1099 (Requiring bond of commission broker of sales on consignment from out of state);

Bourjois v. Chapman, (1937) 301 U. S. 183, 57 S. Ct. 691, 81 L. ed. 1027 (Prohibition of sale of cosmetics unless registered and found to be harmless);

South Carolina State Highway Dept. v. Barnwell Bros., (1938) 303 U. S. 177, 58 S. Ct. 510, 82 L. ed. 734 (Limiting size and weight of vehicles on highways);

Arkansas Louisiana Gas Co. v. Department of Public Utilities, (1938) 304 U. S. 61, 58 S. Ct. 770, 82 L. ed. 1149 (Requirement of filing of rates by foreign public utility distributing natural gas brought in from out of state);

Felt Tarrant Mfg. Co. v. Corbett, (1939) 306 U. S. 62, 59 S. Ct. 376, 83 L. ed. 488 (Duty to collect state use tax from purchasers);

Milk Control Board v. Eisenberg Farm Products Co., (1939) 306 U. S. 346, 59 S. Ct. 528, 83 L. ed. 752 (License, bond and price fixing for dealers in milk).

III. SECTION 201.18 (1) WISCONSIN STATUTES, AS CONSTRUED AND APPLIED, IS NOT VIOLATIVE OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT.

What has been said in the previous subdivision of this brief demonstrates that the regulation here involved is within the police power of the state of Wisconsin and is a reasonable exercise thereof. Appellant, however, asserts that this reserve as it is computed amounts to an attempt by the State of Wisconsin to legislate beyond its borders. It has been pointed out that this statute does not operate extra-territorially in any fashion whatsoever.

The case of *Connecticut General Life Ins. Co. v. Johnson*, (1937) 303 U. S. 77, 58 S. Ct. 436, 82 L. ed. 673, cited by Appellant is in no way in point. Its only relevancy to this case is that it did involve insurance companies. All it holds is that a state may not tax a foreign corporation where neither the tax in its measure nor in its incidence was related to state transactions.

As said in *Osborn v. Ozlin*, (1939) 310 U. S. 53, 60 S. Ct. 758, 84 L. ed. 1074, and in *Hoopeston Canning Co. v. Cullen*, (1943) 318 U. S. 313, 63 S. Ct. 602, 87 L. ed. 777, that state action of this kind aimed at protection of assureds resident therein may have repercussions beyond the boundaries of the state is of no constitutional significance and the State of Wisconsin does not lose its power to protect the interests of its citizens and residents merely because the company carries on activities in other states.

This reserve requirement does not change or effect anything outside of the state. The company's activities, properties, contracts, and liabilities outside of the state remain untouched and unchanged. All this statute does is provide

for the taking into consideration of its activities and affairs as a whole in testing its solvency and passing upon whether its financial condition is sound and sufficient to be permitted to transact an insurance business in the state with the citizens and residents thereof. There is no attempt to exert any authority beyond the state border. The statute in no way prohibits or regulates the conduct of the Appellant's business outside of the state or what it does there. But, as financial condition necessarily is determined by reference to its entire affairs, a standard of solvency, or perhaps more accurately a standard for showing a reserve liability, in reference to its affairs everywhere is prescribed.

Matters that are outside a state may be taken into consideration in matters of state regulation where they bear a relationship to the interest to be served by the regulation. In *Lone Star Gas Co. v. State of Texas*, (1938) 304 U. S. 224, 58 S. Ct. 883, 82 L. ed. 1304 the value of out-of-state production properties were properly taken into consideration by the Texas Railroad Commission in determining a reasonable rate for the sale of natural gas distributed in Texas. See also *Great Atlantic & Pacific Tea Co. v. Grosjean*, (1937) 301 U. S. 412, 57 S. Ct. 772, 81 L. ed. 1193.

Appellant's contention upon this point which is in substance that Wisconsin cannot exact or impose a reserve requirement which takes into account the over-all financial structure of a company is equivalent to claiming that the state is without power to impose any reserve requirement that has the effect of giving protection to people in Wisconsin in dealing with the company. The only other method of giving any such protection would be by requiring a deposit as a trust fund with some state official to which the people in Wisconsin could resort if they have a claim against the company.

If it were that no other state had any solvency requirement at all would that mean then that Wisconsin could not prescribe one? The answer is obvious that it would not. If Wisconsin cannot impose a solvency standard that is directly concerned with and attempts to take into account liabilities on outstanding risks, but is to be limited just to providing some test based only on things that occur in the state, then as a solvency standard it is wholly valueless. But if it can measure solvency by occurrences within the state then why can it not do so by taking into consideration those factors wherever they take place which are necessary to determining financial condition? It might be that upon the basis of insurance transactions in the state the company would be operating soundly but at the same time transactions elsewhere might be unprofitable and so unsound financially that when its affairs are taken as a whole it would be in unsound financial condition. This shows the fallacy of Appellant's position. For computation of this reserve on the basis of the entire consideration paid by policyholders everywhere is the only possible way for truly testing financial condition as respects those policies.

In this connection it makes reference to the fact that it has a number of agents in the state and has spent considerable in developing its business in Wisconsin. But, any such development and expenditure has been when it was doing business in the state without compliance with the Wisconsin statutory regulations and while it has been operating therein under the injunctions as previously recited.

IV. SECTION 201.18 (1) WISCONSIN STATUTES, AS CONSTRUED AND APPLIED, DOES NOT VIOLATE THE FULL FAITH AND CREDIT PROVISION OF ARTICLE IV, SECTION 1 OF THE UNITED STATES CONSTITUTION.

Here again Appellant's contention is based on the erroneous proposition that this reserve is required only to reflect liability for return of premiums upon future cancellation. It has previously been shown that this is not true.

Whether or not the Appellant meets and complies with the insurance laws of other states cannot and does not preclude the State of Wisconsin from prescribing reasonable standards of solvency and financial soundness. This reserve statute does not deny the Appellant any rights or privileges that it may have in other states or that have been granted to it by them. This statute does not legislate for any territory except its own and were the Appellant's argument upon this point to prevail the effect would be to permit the other states to legislate for the State of Wisconsin.

The cases cited by the Appellant, and particularly *Baldwin v. Seelig*, (1934) 294 U. S. 511, 55 S. Ct. 497, 79 L. ed. 1032 and *Corrington, etc. Bridge Co. v. Kentucky*, (1893) 154 U. S. 204, 14 S. Ct. 1087, 38 L. ed. 962 are not remotely in point. There attempts were made to control what was done in other states. No such attempt is made here. All that is done by the statute here is to control what is done within the state. This statute does not say that life membership fees are premium in the other states. It merely says that for purposes of testing solvency and financial soundness of the company in respect to its affairs as a whole as a basis for determining whether its condition is such that it may safely be permitted to do business in Wisconsin the

total amount paid by policyholders for their insurance protection is the base upon which to compute its future contingent liabilities on unexpired risks. This does not in any way interfere with how other states consider the problem or treat with it.

Were this a suit in Wisconsin to recover a part of premium upon the cancellation of a policy from one of the other states then a different question would be presented. In such a case the liability to the policyholder would necessarily be determined by the law of the state in which the policy was written and the insurance was maintained, and the Wisconsin court would then be bound to apply the law of that state. But, that is quite different from the instant situation where no attempt is made to affect or change the liabilities or rights of the company in the other states.

Again if Appellant's contention here were sound then the other states could not only determine and fix the liabilities and rights of a company but could bind the hands of the legislature of Wisconsin so it could not effectively legislate in respect to its own affairs.

The lack of merit in this contention of Appellant is shown by the following cases:

Western Indemnity Co. v. Rupp, (1914) 235 U. S. 261, 35 S. Ct. 37, 59 L. ed. 220;

American Fire Ins. Co. v. King Lumber Mfg. Co., (1919) 250 U. S. 2, 39 S. Ct. 431, 63 L. ed. 810;

Pacific Employers Ins. Co. v. Industrial Accident Commission of State of California, (1939) 306 U. S. 493, 59 S. Ct. 629, 83 L. ed. 940;

Pink v. A. A. A. Highway Express, (1941) 314 U. S. 201, 62 S. Ct. 241, 86 L. ed. 152.

CONCLUSION

It is submitted that Section 201.18 (1) Wisconsin Statutes, as interpreted and applied, is a valid state regulation and should be sustained.

Respectfully submitted,

JOHN E. MARTIN,
Attorney General of Wisconsin,

HAROLD H. PERSONS,
Assistant Attorney General of Wisconsin,

Counsel for Appellee.